



Policing riots

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Section Home Affairs Section

Recent riots in London, Birmingham, the West Midlands, Nottingham, Bristol, Manchester and Liverpool have placed huge demands on the police and other criminal justice agencies, which in turn have led to controversy about both strategy and resources. There have been calls for the use of more robust police tactics, including water cannon and plastic bullets, and even for the army to be called in to support the police. Chief officers of police, in consultation with their police authorities, are responsible for the tactics and equipment to be used, in the light of statutory and other guidance. The Government has said that every contingency is being looked at, and “whatever resources the police need they will get”.

The police have a wide range of public order and other powers to deal with rioters. Possible offences range from riot and affray to theft and criminal damage.

The deployment of the Armed Forces for domestic purposes is governed by a legal doctrine that has evolved over a number of decades, both as the result of legislation, provisions in common law and the establishment of Service regulations as set down in the *Manual of Service Law*. Whilst there have been calls for the armed forces to be deployed to deal with rioting, some commentators have said this would be impractical.

This note looks at the possible roles of the police and armed forces in controlling riots. A separate Library Standard Note 6048 deals with compensation and insurance for those affected by riots.

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1 Police

1.1 Background

Recent riots in London and in towns and cities throughout England¹ have led to debate about police tactics. The policing of riots is often very contentious, and inquiries into particularly significant ones, such as the Southall riots in 1979 and the Brixton riots in 1981 have sometimes led to important changes in the law. Examples of major riots since the mid-1970s and a list of reports of inquiries into those disturbances can be found in the Appendix to this note.

In recent years, concern about police tactics in relation to public order has tended to be in the context of protests and demonstrations, and the need for the police to balance public order with the rights of demonstrators. These issues are discussed in Library Standard Note 5013, *The Policing of Marches and Demonstrations*.

1.2 Resources

Riots on the scale of those seen in the last few days have led to calls in some quarters for the Government to change its plans to reduce planned central Government grant allocations to police forces in England and Wales. Total central Government provision is set to fall by 12% in cash terms and by a fifth in real terms between 2010-11 and 2014-15. The Mayor of London, Boris Johnson, reportedly said on Radio 4's *Today* programme that the Government should reconsider their plans to cut police budgets:

If you ask me whether I think there is a case for cutting police budgets in the light of these events, then my answer to that would be no. I think that case was always pretty frail, and it has been substantially weakened. This is not a time to think about making substantial cuts in police numbers ... I'm looking at the country as a whole.²

In a press conference on 10 August 2011, the Prime Minister, David Cameron, set out the Government's response to the riots, including the following:

This continued violence is simply not acceptable and it will be stopped. We will not put up with this in our country. We will not allow a culture of fear to exist on our streets. Let me be clear. At COBRA this morning we agreed full contingency planning is going ahead. Whatever resources the police need they will get. Whatever tactics the police feel they need to employ they will have legal backing to do so. We will do whatever is necessary to restore law and order onto our streets. Every contingency is being looked at. Nothing is off the table. The police are already authorised to use baton rounds and we agreed at COBRA that while they're not currently needed we now have in place contingency plans for water cannon to be available at 24 hours' notice.³

In the questions which followed his statement, Mr Cameron was asked to respond to Boris Johnson's point:

Question Prime Minister, do you think that Boris Johnson is right, that you shouldn't be cutting the police when all this is going on? And can I ask you, that if you were out on the streets of London last night you would have been in a place that was not at all reassuring. It felt like a city under siege, to be frank. Do you think that that is a situation that is sustainable?

¹ Birmingham, the West Midlands, Nottingham, Bristol, Manchester and Liverpool

² "Boris warns on police cuts", *Today* website, 10 August 2011

³ Number 10 Website, *PM Statement on violence in England* 10 August 2011

Prime Minister Well, first of all, obviously mayors, local authorities always want more money and I don't blame them for that. It's the government's job to give them what they need and to make sure they make the most of what they get. The first question I asked in COBRA today was whether the police had the resources that they needed, and they said yes, they did. I believe actually the last three days have demonstrated how important it is to get the most out of what we've got. We've gone from 3,000 police on the streets of London to 16,000 police on the streets of London, and I think that's a demonstration that when you work hard to increase visible policing that can be done.⁴

The equipment which police may use in dealing with public disorder is discussed below.

1.3 General considerations: the use of force

The law permits police officers to use reasonable force in exercising their powers. Under the common law police officers, like other citizens, are also permitted to use reasonable force in self defence or in defence of another person.

The main statutory provision governing the use of force in connection with law enforcement, whether by the police or by ordinary civilians, is section 3 of the *Criminal Law Act 1967*. This provides that: "a person may use such force as is reasonable in the circumstances in the prevention of crime, or in effecting or assisting in the lawful arrest of offenders or suspected offenders or of persons unlawfully at large." It would be for a jury to decide whether or not the force used in a particular case was reasonable. The *Human Rights Act 1998* and the *European Convention on Human Rights* (ECHR) would also be highly relevant in determining what was lawful.

In addition, section 117 of the *Police and Criminal Evidence Act 1984* provides that where that Act confers a power on a constable, that officer may use reasonable force in the exercise of that power.

The use of force by the police is discussed in further detail on pages 34-7 of the Association of Chief Police Officers' [Manual of Guidance on Keeping the Peace](#) (2010).

1.4 Tactics

The operational tactics theoretically available to the police to deal with public order are set out in Appendix One of ACPO's [Manual of Guidance on Keeping the Peace](#), along with the considerations which apply when deciding whether or not to deploy them, and the authority levels necessary.

Resources which can be deployed include:

- Use of the Territorial Support Group
- Mutual Aid between forces⁵
- Community mediators
- Forward intelligence teams
- Evidence Gathering teams

⁴ Ibid

⁵ See for example ACPO's [Comment on mutual aid following recent disorder](#), 9 August 2011

- Air support
- Specialist arrest teams
- Mounted Police
- Police Dogs
- Armed officers

Tactics include:

- Cordons and intercepts
- Shield tactics
- Batons
- “Attenuating Energy Projectiles” (also known as impact rounds, developed to replace plastic bullets) (for use only by trained officers)
- Screening Smoke
- Water cannon
- CS smoke

There is also specific advice on containment or kettling.⁶

Information on some of the more controversial of these is given below.

1.5 Firearms and other weapons

Chief officers of police, in consultation with their police authorities, are responsible for the acquisition of weapons requiring special authorisation for use in their force areas, on the basis of the threat and risk assessment processes. Statutory guidance on this is provided in the Home Office *Code of practice for police use of firearms and less lethal weapons* (2003) and this is put into operational context in the ACPO/National Policing Improvement Agency's *Manual of Guidance on the Management, Command and Deployment of Armed Officers* (2009) - see particularly chapter 3 for a discussion of the range of equipment, including firearms, ammunition, tasers, Attenuating Energy Projectiles, body armour, and CS munitions. ACPO has also produced manuals of guidance on Attenuating Energy Projectiles (AEPs) and Tasers.

The Joint Committee on Human Rights discussed the human rights implications of using Attenuating Energy Projectiles in Northern Ireland in a 2006 report:

Given the evidence we have heard about the diminished risks of injury arising from the use of AEPs in comparison with previous versions of baton rounds, we recommend that the army should actively consider switching to a practice of use of AEPs in public order situations outside the UK.

181. The use of AEPs in Northern Ireland raises clear human rights concerns in principle. We are of the view that use of AEPs against individual aggressors in riot

⁶ pp 110-111 – see Library Standard Note 5013 for a discussion of this

situations, but not for riot control purposes, can be justified in human rights terms as a proportionate response to serious violence which threatens the lives of police or the public. Use of AEPs, both generally and in individual cases of firing, should continue to be subject to close scrutiny to ensure that these conditions are met. It is important that there is clarity and consistency in the guidelines which apply to use of AEPs in Northern Ireland by the police and the army. We also consider that there is a case to strengthen the guidelines to clarify that AEPs should only be used in circumstances where live fire could otherwise be used.⁷

Water cannon

Water cannon have never been used in mainland Britain, although they are deployed in Northern Ireland. In the past, the police have been unwilling to use them. At the time of the student protests in December 2010, Sir Hugh Orde reportedly described water cannon as a “blunt instrument” and said forces remained committed to “proportionate and minimum use of force” policing.⁸

Also in the context of the student protests, the then shadow Home Secretary, Ed Balls, asked the Home Secretary, Theresa May, about the use of these in December 2010:

I turn to police tactics and the future use of water cannon and rubber bullets. Will the Home Secretary agree to set aside her own views and respect the operational judgment of the head of the Association of Chief Police Officers, Sir Hugh Orde, that the use of water cannon and rubber bullets in protests would be a blunt instrument and very difficult, and would risk escalating matters and doing more harm than good?⁹

Mrs May responded:

The right hon. Gentleman commented on tactics, and he mentioned rubber bullets. I do not think that, so far, either I or anybody on this side of the House has suggested the use of rubber bullets. I will clarify the position on water cannon. It is of course the responsibility of the Home Office to set the legal parameters for measures that can be used by the police, and, as I speak, water cannon have yet to be approved as a piece of equipment that can be used by the police. Then, senior police officers have the operational responsibility to decide what equipment they use, currently in agreement with police authorities and, in future, in agreement with police and crime commissioners. In relation to London, that decision would be agreed with the Mayor of London, who is the equivalent of a police and crime commissioner. I think that that mixture of legal oversight, professional discretion and democratic consent has to be right. However, I do not think that anyone wants to see water cannon used on the streets of Britain. As I said in my statement, if the right hon. Gentleman heard me, we have a different attitude to the culture of policing here in the UK. We police by consent, and that depends on trust between the police and the public. A range of measures is available to the police, and I do not think that water cannon is needed.¹⁰

A BBC article on 9 August 2011 discussed some of the issues:

Water cannons which shoot a high-pressure stream of water against rioters are used in Northern Ireland as well as France, Germany and other European counties.

⁷ Joint Committee on Human Rights, *The UN Convention Against Torture (UNCAT)*, HL 185 I/HC 701-I 2005-06, 26 March 2006

⁸ “Met rules out use of ‘paramilitary’ water cannon to control rioters”, *Evening Standard*, 13 December 2010

⁹ HC Deb 13 December 2010 c668

¹⁰ Ibid c669

Conservative MP Patrick Mercer, a former army officer, called for the police to be allowed to use water cannon, saying he had used such technology and found it "extremely effective".

Dr Peter Shirlow, a human geographer and public order expert at Queen's University Belfast, agrees that such kit can be a very useful way of containing rioters by directing them into a specific area.

But he warns that, because it has never been used in Great Britain before, the authorities would risk "sending out a message that we have lost control" and inflaming tensions "in a country that has never been comfortable with the idea of militarisation".

Additionally, Peter Waddington, professor of social policy at University of Wolverhampton, who has studied policing and public order for 30 years, says getting hold of them at such short notice could be problematic.

"You don't magic water cannons out of nowhere," he adds. "There are six in Northern Ireland, but this is the marching season. I'm not sure the police there would be too keen to send them across."¹¹

However, as mentioned above, the Prime Minister indicated in a press statement on 10 August 2011 that contingency plans were in place to obtain these:

Continued violence was unacceptable, the PM said, and stressed that "whatever resources the police need they will get" including contingency plans for water cannons to be available at 24 hours' notice.¹²

The previous government indicated in a written parliamentary answer in June 2000 why water cannon were not in use at that time for public order purposes:

Mr. Baker: To ask the Secretary of State for the Home Department, pursuant to his oral statement of 22 May 2000, *Official Report*, column 656, if he will make a statement on his policy in respect of the use of water cannon against crowds (a) comprised entirely of adult males, (b) comprised of adult males and adult females and (c) comprised entirely of adult females. [124361]

Mr. Straw: Water cannon are not currently in use for public order purposes in England and Wales.

The possibility of providing the police with water cannon to deal with serious public disorder was carefully considered by a joint police and Home Office working party in the 1980s. Tests were conducted into all aspects of the water cannon's operational capabilities. Models in use on the continent were examined and a wide range of tests were carried out using custom-built British prototypes, as a result of which a number of operational problems emerged.

Water cannons cannot be mobilised quickly in order to deal with spontaneous disorder and when mobilised are slow and difficult to manoeuvre, particularly in narrow streets. When water cannon were used in Northern Ireland in the early 1970s they were not found to be effective and, in fact, they became prize targets for rioters.

For these reasons, chief police officers in England and Wales have not been persuaded that water cannon would be of operational value in dealing with public disorder in this country.¹³

¹¹ "What could the police do to stop the rioting", *BBC News*, 8 August 2010

¹² Number 10 press release, "Every contingency is being looked at" - *PM*, 10 August 2011

1.6 Police powers to deal with violent disorder

Breach of the peace

One of the fundamental duties of a police officer is the preservation of 'the Queen's peace'. The police have common law powers to arrest for breach of the peace where harm is done, or is likely to be done, to a person or a person's property in his presence or a person is genuinely in fear of such harm. As such, it is an extremely broad power. A breach of the peace is the offence for which protesters are most commonly arrested. It is a civil wrong, not a criminal offence, and the only possible penalty is a bind-over order.

Offences under the Public Order Act 1986

Sections 1–5 of the Public Order Act contain offences with which the police could charge those committing or threatening acts of violence. In order of seriousness, these are as follows:

- **Riot** (section 1), where 12 or more people together threaten or use unlawful violence in such a way that "a person of reasonable firmness present" would fear for his personal safety (maximum penalty 10 years and a fine). The Crown Prosecution Service publishes information on sentencing for riot in the [Riot](#) section of its [Sentencing Manual](#).
- **Violent disorder** (section 2) – similar to riot, but involving three or more people acting together (maximum sentence of five years in prison and a fine)
- **Affray** (section 3) – similar to the above, but involving individual action (maximum penalty up to three years' imprisonment and a fine). For this offence a threat cannot be made by the use of words alone and it must be shown that the accused intended to use or threaten violence, or that he was aware that his conduct might be violent or threaten violence.
- **Fear or provocation of violence** (section 4) using threatening, abusive or insulting words or behaviour towards another person; or "distributing or displaying to another person any writing, sign or visible representation" which is threatening, abusive or insulting (maximum sentence of six months' imprisonment and a £5,000 fine)
- **"harassment"**, (section 4A¹⁴) which is committed by a person who, with intent, uses threatening, abusive or insulting words or behaviour or disorderly behaviour" or "displays any threatening, abusive or insulting writing, sign or other visible representation" and in doing so causes that other person harassment, alarm or distress (maximum penalty - six months' imprisonment and a £5,000 fine)¹⁵
- **Disorderly conduct** (section 5 – maximum penalty a fine of £1,000) which applies to threatening, abusive, insulting or disorderly behaviour used, or threatening, abusive or insulting writing, signs and visible representations displayed, within the hearing or sight of a person likely to be caused harassment, alarm or distress thereby.

¹³ HC Deb 5 June 2000 c157W
http://www.publications.parliament.uk/pa/cm199900/cmhansrd/vo000605/text/00605w40.htm#00605w40.html_wqn3

¹⁴ Inserted by the *Criminal Justice and Public Order Act 1994*

¹⁵ It is a defence for a person accused of this offence to prove that his conduct was reasonable; or that he was inside a dwelling and had no reason to believe that the words or behaviour used, or the writing, sign or other visible representation displayed, would be heard or seen by a person outside that or any other dwelling.

The Crown Prosecution Service provides legal guidance charging those suspected of public order offences.¹⁶

“Curfew” or dispersal powers

In addition to the *Public Order Act 1986*, section 30 of the *Anti Social Behaviour Act 2003* gives the police the power to designate areas where they can disperse groups causing intimidation. In brief, section 30 allows the police to designate an area in which there is persistent anti-social behaviour. Within such an area, the police and Community Support Officers have the power to:

- disperse groups where the relevant officer has reasonable grounds for believing that their presence or behaviour has resulted, or is likely to result, in a member of the public from being harassed, intimidated, alarmed or distressed. Individuals can be directed to leave the locality and may be excluded from the area for up to 24 hours.
- return home young people under 16, who are out on the streets and not under the control of an adult, after 9pm.

In order to issue an order a senior police officer has to have reasonable grounds for believing **both:**

- (a) that any members of the public have been intimidated, harassed, alarmed or distressed as a result of the presence or behaviour of groups of two or more persons in public places in the locality in question; **and**
- (b) that anti-social behaviour is a significant and persistent problem in the relevant locality.

Further details are given in Library Standard Note 4048, *Police powers to disperse children and groups under the Anti-Social Behaviour Act 2003*.

Other powers

Besides breach of the peace, there could be arrests for obstruction of the highway¹⁷ or obstructing a police officer in the exercise of his lawful duty.¹⁸ Acts or threats of violence may also be dealt with by the ‘ordinary’ law: offences of common assault,¹⁹ battery, or, more seriously, actual bodily harm.²⁰ Where violence is directed towards property (intentionally or recklessly destroying or damaging property to another without lawful excuse) such acts may be treated as criminal damage.²¹

2 Domestic Operations by the Armed Forces

Under the Royal Prerogative the missions and tasks appointed to the Armed Forces are determined by the Defence Council. They are reviewed and amended by the Council when it is considered necessary and in line with the prevailing or expected strategic priorities of the

¹⁶ CPS, Public Order Offences incorporating the Charging Standard, November 2010

¹⁷ Section 137 (1) *Highways Act 1980*

¹⁸ Section 89 *Police Act 1996*

¹⁹ Section 39 *Criminal Justice Act 1998*, *ibid.* for ‘battery’

²⁰ Section 47 *Offences Against the Person Act 1861*

²¹ Section 1 *Criminal Damage Act 1971*

UK. Military Aid to the Civil Authorities (MACA) has long been identified, under the Royal Prerogative, as one of the standing home tasks of the Armed Forces.²²

The deployment of the Armed Forces for domestic purposes is governed by a legal doctrine that has evolved over a number of decades, both as the result of legislation (Section 2 of the *Emergency Powers Act 1964*, and the *Civil Contingencies Act 2004*)²³, provisions in common law and the establishment of Service regulations as set down in the *Manual of Service Law*.

At the core of that doctrine is the absolute primacy of the civil authorities; while all operations must also be conducted within the legal parameters of both civil and military law. All MACA requests must be made to the Ministry of Defence by the relevant government department and all require ministerial approval, except in those circumstances where life is considered to be immediately at risk.

There are three categories of MACA:

- **Military Aid to Other Government Departments (MAGD)** - the deployment of military personnel on urgent work of national importance or in maintaining supplies and essential services, including those that are being disrupted by industrial or strike action. The provision of MAGD requires the use of emergency powers (usually Section 2 of the *Emergency Powers Act 1964*) and can only be undertaken with the explicit authorisation of Ministers and the Defence Council in response to a specific request from the appropriate Lead Government Department (LGD). Under the *Civil Contingencies Act 2004* emergency powers can be invoked on a local, regional or national basis if the supply and distribution of the essentials of life to the community are extensively threatened, including authorisation by the Defence Council for the deployment of the Armed Forces.

The deployment of the Armed Forces during the foot and mouth crisis in 2000, for example, was categorised as an MAGD operation. In the Joint Doctrine Publication (JDP) 02 *Operations in the UK: the Defence contribution to resilience*, requests for severe weather assistance are also referred to under the chapter on MAGD.

- **Military Aid to the Civil Power (MACP)** – Based on common law (which imposes a duty on every citizen, including Service personnel, to go to the aid of the Police/Civil Power, when requested, to assist in the enforcement of law and order, where it is reasonable to do so and where they have the resources and ability to do so), MACP is the provision of military assistance (armed, if appropriate) to the civil power in its maintenance of law, order and public safety using specialist capabilities or equipment in situations beyond the capability of the civil power. It differs from MAGD where the legal basis for deploying members of the Armed Forces is set down in statute. However, to ensure that the provision of the support is both reasonable and soundly based in law, all MACP support requires the approval of a Defence Minister.

There are only two occasions where Service personnel may be deployed to assist a Civil Power when such a deployment has not received the prior approval of the relevant Government Department and Defence Ministers. These are:

²² In the October 2010 Strategic Defence and Security Review, supporting civil emergency organisations in times of crisis was identified as one of the seven core Military Tasks of the Armed Forces.

²³ This repealed the Emergency Powers Acts 1920 and 1964, with the exception of section 2.

- Deployment under Military Assistance to the Civil Community (MACC) Category A (see below) which is authorised under a Defence Council Order signed in 1983.
- Routine MACP deployments covered by standing ministerial approval, where the authority to deploy has been delegated to a military commander, such as Explosive Ordnance Disposal (EOD) and Search and Rescue (SAR) operations.

Counter terrorism operations, fisheries protection and quelling civil unrest are examples of MACP.

- **Military Aid to the Civil Community (MACC)** – the provision of unarmed military assistance either to the civil authorities or to the civil community generally in carrying out specific projects of significant social value. MACC is categorised as follows:
 - Category A - Emergency assistance to the civil authorities in times of emergency such as natural disasters or major emergencies.
 - Category B - Routine assistance for special projects or events of significant value to the civil community.
 - Category C - Attachment of volunteers to appropriate organisations.

Historically, Military Aid to the Civil Power in Northern Ireland has been treated as a distinct Military Task (see below).

2.1 Legal Powers of Military Personnel Conducting MACP Operations

Joint Doctrine Publication 02, *Operations in the UK: The Defence Contribution to Resilience*, sets out the legal powers of Service personnel conducting Military Aid to the Civil Power operations, including their powers of arrest. That document states:

410. **General Powers.** Service personnel are required to act within the rule of law and will normally have no special legal powers beyond those of the ordinary citizen. Hence, Service personnel may use reasonable force to prevent crime, including in self-defence.

411. **Arrests.** Although Service personnel should not normally attempt to arrest a civilian, in certain circumstances there may be no other option. Any citizen, including a member of the Armed Forces, in England, Wales and Northern Ireland may arrest offenders for a breach of the peace.⁸ Furthermore, in England, Wales⁹ and Northern Ireland citizens may also arrest a person for any 'arrestable offence' that has been committed. These will include serious assaults, acts of hostage taking, theft and criminal damage. In Scotland, a citizen may not make an arrest for a breach of the peace, which has already taken place. He/she may, however, intervene to try to stop a breach of the peace and may act to assist a civilian police officer. Furthermore, in Scotland a citizen may make an arrest for serious offences only if he/she sees the crime being committed.

412. In agreeing the provision of MACP support, the MOD agrees that Service personnel can act under the supervision or direction of the Police or other Civil Power to perform a particular task. Service personnel, however, remain under military command at all times. To ensure that both the command relationship and the legal basis of their involvement remain clear, the MOD does not agree to any request that places Armed Forces personnel under the direct command of police officers or other civil-service personnel, or which gives the Armed Forces generic civil powers. The

MOD would not, for example, agree to the enlistment of serving Service personnel as special constables, firefighters or paramedics, or their appointment as Health and Safety Inspectors, Trading Standards Officers or local Government officials.

2.2 Examples of military support in emergencies

The Armed Forces have not been deployed in support of the police for situations of civil unrest on the UK mainland in recent times.

The most high profile examples of military support for domestic operations have been the deployment of the Armed Forces to provide assistance during the foot and mouth outbreak in 2001, providing fire cover during the industrial disputes of 2003, to enhance security at Heathrow and other locations around London as part of counter-terrorism operations in early 2003 and in flood relief operations between 2007 and 2009. Chapter seven of the annual publication *Defence Statistics* provides a list of situations where the Armed Forces have been deployed in support of the civil authorities. The archive of *Defence Statistics*, dating back to 1992, is available online from the [DASA website](#).

During the 2002-3 fire fighters' strike the army provided cover in Operation Fresco. Information on this is available on the "[Operation Fresco](#)" pages of the archived version of the Ministry of Defence's website. However, the Government reportedly refused to provide this in 2006, stating that using soldiers to cover the strike would have "an unacceptable impact on defence activities", that the "green goddess" firefighting vehicles had been sold, and the Armed Forces had not been trained to operate new fire engines.²⁴

2.3 Commentary

An article by the Director of National Security and Resilience of the Royal United Services Institute argues that calls to bring in the army are "unrealistic:"

Even though senior police officers foresaw the onset of disturbances and rioting, they were completely unprepared for the scale of violence witnessed on the streets of Britain in summer 2011. Seeing police failure, some have called for the Army to be drafted in. This is unrealistic, the police needs to stay in charge.²⁵

3 Emergency powers

The *Civil Contingencies Act 2004* contains wide emergency powers, including (as was discussed above) to deploy the armed forces. The Act empowers the Queen (or in certain limited circumstances, a senior Minister of the Crown) to make regulations if an "emergency" has occurred or is about to occur. "Emergency" is defined broadly, and would include an event or situation which threatens serious damage to human welfare, including one which involves damage to property:

- (a) an event or situation which threatens serious damage to human welfare in a place in the United Kingdom,
- (b) an event or situation which threatens serious damage to the environment of a place in the United Kingdom, or
- (c) war, or terrorism, which threatens serious damage to the security of the United Kingdom.

²⁴ 'Military back-up refused for strike by firefighters', *Times*, 20 May 2006

²⁵ Dr Tobias Feakin, [The police are still the only option to deal with rioting Britain](#), August 2011

2) For the purposes of subsection (1)(a) an event or situation threatens damage to human welfare only if it involves, causes or may cause—

- (a) loss of human life,
- (b) human illness or injury,
- (c) homelessness,
- (d) damage to property,
- (e) disruption of a supply of money, food, water, energy or fuel,
- (f) disruption of a system of communication,
- (g) disruption of facilities for transport, or
- (h) disruption of services relating to health.

The Regulations can, amongst other things:

- prohibit, or enable the prohibition of, movement to or from a specified place;
- require, or enable the requirement of, movement to or from a specified place;
- prohibit, or enable the prohibition of, assemblies of specified kinds, at specified places or at specified times;
- prohibit, or enable the prohibition of, travel at specified times;
- prohibit, or enable the prohibition of, other specified activities;

They can create an offence of—

- failing to comply with a provision of the regulations;
- failing to comply with a direction or order given or made under the regulations;
- obstructing a person in the performance of a function under or by virtue of the regulations

The regulations can disapply or modify other Acts of Parliament, with the exception of the *Human Rights Act 1998*.²⁶

Under section 5 of the 2004 Act, a Minister of the Crown may by order require certain people or bodies (which include local authorities, the police and the fire service) to perform their functions for the purpose of—

- (a) preventing the occurrence of an emergency,
- (b) reducing, controlling or mitigating the effects of an emergency, or
- (c) taking other action in connection with an emergency.

A 2010 article in the journal *Public Law* argues that the 2004 Act provides cause for concern:

²⁶ Regulations 22 and 23

(...) the Civil Contingencies Act has created substantial military deployment powers, accompanied by far-reaching emergency provisions. Moreover, Ministry of Defence policies are based on vague common law, executive and prerogative powers that purportedly can authorise the use of troops against a wide range of challenges to "public order". Secretive preparations have been made for Military Aid to Civil Power, and the 2012 London Olympics are likely to involve a sizeable armed forces contingent. These developments are of considerable concern because throughout British history, troops have been mobilised against civilians in periods of acute political and social conflict.²⁷

4 Pressures on the Criminal Justice System

The riots have certainly put considerable pressures on the courts and other criminal justice services, initially by forcing them to shut early in affected areas and then through the large numbers of people being prosecuted. In London, the Metropolitan Police reportedly ran out of police cells and had to send suspects to other force areas.²⁸ The Crown Prosecution Service has been providing charging advice around the clock, and courts have been sitting through the night to process cases.

The Ministry of Justice have said that there are sufficient adult prison places:

A Ministry of Justice spokeswoman has confirmed that there is enough room in jail for anyone sentenced to custody as a result of the violence and looting.

"We have enough prison places for those that are sentenced to custody," she said. "There is substantial capacity in the prison system - currently there are 2,500 unused spaces within the estate. The total prison population on Friday August 5 2011 was 85,523." The usable operational capacity was 88,039.

She also confirmed that there was no reported trouble connected with the riots in any prison in England and Wales.²⁹

The prison statistics cited are for male prison places.³⁰

Similarly, the chief executive of the Youth Justice Board has said there are sufficient places for young offenders:

Youth jails have more than enough capacity to deal with an expected surge in demand as a result of riots breaking out across England, the head of the Youth Justice Board (YJB) has said.

John Drew, YJB chief executive, told CYP Now there are currently 300 beds in the youth secure estate that are not in use and, prior to last night (9 August), only one child had been remanded in custody in relation to the riots, although this figure is expected to rise.

Upwards of 500 arrests have been made across the country since Saturday evening relating to the riots although it is unclear how many of these are under-18s.

²⁷ Michael Head, "Calling out the troops and the Civil Contingencies Act: some questions of concern", *Public Law*, April 2010, pp340-361

²⁸ "London riots: police run out of cells as prisons and courts near 'crunch point', *Guardian*, 9 August 2011

²⁹ [London and UK riots day three aftermath: live coverage](#), *Guardian* blog, 9 August 2011 (accessed on 10 August 2011)

³⁰ HM Prison Service, [Population and Capacity Briefing for 5 August 2011](#)

Drew said he is confident there is enough room in custodial establishments to deal with an increase in remands or custodial sentences, in spite of concerns raised last month about capacity.³¹

5 Advice for the public

The Government has issued advice for the public on the DirectGov website:

Violence spread to other parts of England yesterday, although more police on the streets meant that London was largely quiet. People are advised to exercise extreme caution, particularly around crowds, and parents are urged to ensure their children stay off the streets as police move to tackle any signs of disturbance.

(...)

Safety advice

The police have advised people to:

- stay off the streets to help officers deal with the looters and rioters
- call 999 if you feel under threat or to report an emergency
- call 101 to report a non-emergency crime if you're in London, Hampshire, Essex, Sussex or Wales (for other force's non-emergency numbers, follow the link below)
- contact their children and ask where they are

Temporary Commissioner of the Metropolitan Police, Tim Godwin, said: "This is not a game - this is criminality, burglary and violence. We will pursue everyone involved in this and make sure they are brought to justice."³²

³¹ "Youth prisons have capacity to cope with rise in remands after riots, confirms YJB chief", *Children and Young People Now*, 9 August 2011

³² DirectGov, *UK Riots: Advice for the Public*, 10 August 2011

Riots since 1975 and Inquiries

London, Birmingham, Nottingham, Liverpool, Bristol & West Midlands August 2011
London – Student protest riots – November 2010
Luton May 2009
Birmingham October 2005
Bradford July 2001
Burnley June 2001
Oldham May 2001
Harehills, Leeds June 2001
London –May Day riots- May 2001
London –May Day riots- May 2000
Brixton December 1995
Handsworth, Birmingham September 1991
Trafalgar Square – Poll Tax riots - March 1990
Broadwater Farm, London October 1985
Toxteth, Liverpool & Peckham, London 1 October 1985
Brixton September 1985
Handsworth, Birmingham September 1985
Toxteth, Liverpool July 1981
Handsworth, Birmingham July 1981
Sheffield July 1981
Chapelton, Leeds July 1981
Moss Side, Manchester July 1981
Brixton July 1981
Brixton April 1981
St Paul's, Bristol April 1980
Southall April 1979
Lewisham – 'Battle for Lewisham' - August 1977
Notting Hill August 1976
Chapelton, Leeds November 1975

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